

Appln No.: 10/604,166
Amendment Dated: October 26, 2005
Reply to Office Action of July 26, 2005

REMARKS/ARGUMENTS

This is in response to the Office Action mailed July 26, 2005 for the above-captioned application. Reconsideration and further examination are respectfully requested.

The Examiner noted that Tables 1 and 2 referred to in the application were not present. Applicants have amended the specification to include Tables 1 and 2. This is not new matter, because the absence of the tables is an artifact of the electronic filing and printing process, and were present in the application as filed. In this regard, a copy of the filing receipt listing the image files for Tables 1 and 2 is attached.

Claims 24 and 25 have been added. These claims are supported in ¶ 0028.

The Examiner rejected claims 1-23 for obviousness-type double patenting in view of claims 1-4 and 20-26 of US Patent No. 6,353,046 in view of US 5,606,007 and 6,136,945. Applicants respectfully submit that this rejection is improper because all of the references relied upon are available as art under 35 USC § 102(b), and indeed are cited in the rejection under 35 USC § 103. The obviousness-type double patenting rejection would have the effect of placing the present inventors in a worse position than a third party which is not the intent of this judicially-created doctrine.

The Examiner rejected claims 1-23 under 35 USC § 103 as obvious over US Patent No. 6,353,046 in view of US 5,606,007 and 6,136,945. Applicants respectfully traverse this rejection. In discussing the references, the Examiner has not explained how the references teach the base to quencher ratio as set forth in the present claims. Thus, in the first instance, the Examiner has failed to present a prima facie case of obviousness because not every limitation of the claimed invention has been shown to be taught or suggested by the art.

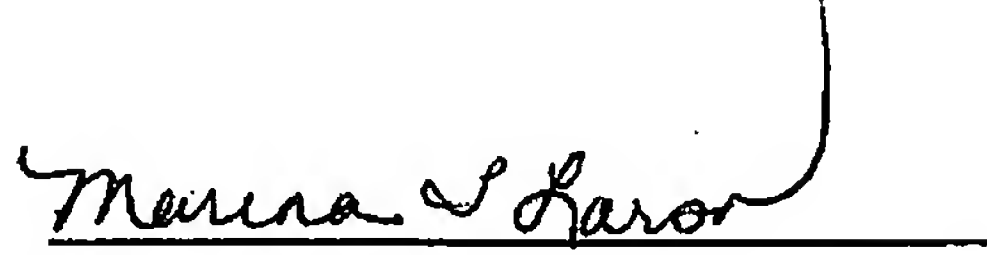
Furthermore, because of absence of the Tables from the application provided to the examiner, the significance of this ratio would have been less apparent. As shown in Table 1, when the ratio is too high (Batch 9), flame performance suffers. On the other hand, at a molar ratio of around 1, the flame performance also begins to deteriorate. Table 2 shows similar results from a different acidic quencher. Nothing in the art teaches or suggests that there would be an upper limit above which excess quencher resulted in degradation of fire retardant properties.

The Examiner also rejected claims 1-23 as obvious over the combination of US Patent No. 4,130,530 in view of US 6,353,046, and US 3,775,367 further in view of US 5,606,007 and US 6,136,945. Applicants respectfully submit this rejection is cumulative with the reference discussed above. Further, the Examiner has not addressed the limitation in claim 1 as to the molar ratio of the quencher to the initial base.

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For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully submitted,


Marina T. Larson, Ph.D
Attorney/Agent for Applicant(s)
Reg. No. 32038

(970) 468 6600

Attachment:
Copy of e filing receipt